

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2295

**Introduced by Assembly ~~Member~~ Members De La Torre and
Fletcher**

February 18, 2010

~~An act to amend Sections 815 and 816 of the Insurance Code, relating to insurance. An act to add Section 3001.5 to the Penal Code, relating to parole.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2295, as amended, De La Torre. ~~Insurance. Parole: retention of records.~~

Existing law generally regulates parole.

This bill would require the Department of Corrections and Rehabilitation to permanently retain all files prepared by the Division of Adult Parole Operations regarding any person who was paroled who has been imprisoned for committing a serious felony or a violent felony, as defined, or who is required to register as a sex offender, as specified.

~~Existing law provides for the regulation of insurers by the Department of Insurance and prohibits an insurer from paying a person given discretion as to the settlement of claims under an insurance policy a compensation that is contingent on the amount of the settlement of those claims, except as otherwise provided.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3001.5 is added to the Penal Code, to
2 read:

3 3001.5. The Department of Corrections and Rehabilitation
4 shall permanently retain all files, including handwritten or typed
5 field files, prepared by the Division of Adult Parole Operations
6 regarding any person who has been released on parole from the
7 state prison who was imprisoned for committing a serious felony,
8 as defined in Sections 1192.7 and 1192.8, or a violent felony, as
9 defined in Section 667.5, or who is required to register pursuant
10 to the Sex Offender Registration Act.

11 ~~SECTION 1. Section 815 of the Insurance Code is amended~~
12 ~~to read:~~

13 ~~815. An insurer shall not pay a representative given discretion~~
14 ~~as to the settlement or adjustment of claims under life or disability~~
15 ~~policies, whether in direct negotiation with the claimant or in~~
16 ~~supervision of the person negotiating, a compensation that is in~~
17 ~~any way contingent upon the amount of settlement of those claims.~~

18 ~~SEC. 2. Section 816 of the Insurance Code is amended to read:~~

19 ~~816. An insurer shall not pay a person given discretion as to~~
20 ~~settlement of claims under a policy of insurance, or surety bond,~~
21 ~~whether in direct negotiation with the claimant or in supervision~~
22 ~~of the person negotiating, a compensation that is in any way~~
23 ~~contingent upon the amount of settlement of those claims, except~~
24 ~~as otherwise expressly provided in this section.~~

25 ~~This section shall apply equally to a single claim, a number of~~
26 ~~specified claims, an aggregate of claims during a specified period~~
27 ~~of time or an aggregate of claims under a contract, agreement, or~~
28 ~~arrangement.~~

29 ~~This section shall not affect the interpretation or provisions of~~
30 ~~Section 815.~~

31 ~~The word “person” as used in this section includes, but is not~~
32 ~~limited to: employees, agents, brokers, representatives, general~~
33 ~~agents, managing general agents, surplus line brokers, insureds,~~
34 ~~coinsureds, adjusters, and independent contractors, but does not~~
35 ~~include attorneys in fact or other exclusive managers of an insurer.~~

36 ~~This section does not apply to:~~

37 ~~(a) Compensation of a producer, managing general agent, surplus~~
38 ~~line broker, or general agent under an arrangement, agreement, or~~

1 ~~contract whereby the producer or general agent is not granted~~
2 ~~discretion in the actual adjustment or settlement of any or all~~
3 ~~individual claims settled for an amount exceeding five hundred~~
4 ~~dollars (\$500):~~

5 (b) ~~A producer, managing general agent, surplus line broker, or~~
6 ~~general agent who is compensated by a contingent commission~~
7 ~~arrangement based wholly or partly on underwriting results, unless~~
8 ~~the arrangement guarantees an agreed return to the insurer that~~
9 ~~may exceed the underwriting profit actually earned by the insurer~~
10 ~~on business written through the producer, managing general agent,~~
11 ~~surplus line broker, or general agent.~~

12 (c) ~~Contracts of reinsurance between insurers.~~

13 (d) ~~An arrangement, schedule of charges, agreement, or contract,~~
14 ~~express or implied, for the adjustment of claims under which the~~
15 ~~compensation for the services of the person making the adjustment~~
16 ~~(exclusive of reimbursement for actual expenses) consistently~~
17 ~~increases, in reasonable brackets, as the amount paid in settlement~~
18 ~~of a claim increases.~~

19 ~~An insurer that in any other jurisdiction is making payments that~~
20 ~~would be in violation of this section if made in respect to insurance~~
21 ~~business done in this state shall not be admitted to this state until~~
22 ~~it presents evidence satisfactory to the commissioner that it will~~
23 ~~not make those payments in this state and that it will within one~~
24 ~~year after admission to this state cease to make those payments in~~
25 ~~any other jurisdiction and, within the same period, terminate any~~
26 ~~contract or arrangement under which those payments are to be~~
27 ~~paid. Failure to so cease those payments and to so terminate those~~
28 ~~contracts and arrangements within that one-year period shall~~
29 ~~constitute grounds for revocation of the insurer's certificate of~~
30 ~~authority.~~